

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TURON MCGEE,
Plaintiff,

v.

GREGORY THOMAS, CAITLYN
McLAUGHLIN, JASON McLEAN, JOEL
TINSMAN, AUDREY DONALD,
KIMBERLY BARKLEY, GEORGE
KOONTZ, LEO DUNN, LINDA
ROSENBERG, MARK KOCH,
EVERETTE GILLISON, LESLIE GREY,
MICHAEL POETTIGER, CRAIG McKAY,
THEODORE JOHNSON, EDWIN BURKE,
and JANE DOE (SCHULTZ),
Defendants.

CIVIL ACTION

NO. 16-5501

O R D E R

AND NOW, this 10th day of January, 2018, upon consideration of Defendants Jane Doe (Schultz) and Audrey Donald's Motion to Dismiss Plaintiff's Second Amended Complaint (ECF No. 69); Defendants Edwin Burke, Leo Dunn, Everette Gillison, Leslie Grey, Theodore Johnson, Mark Koch, Craig McKay, Michael Poettiger, and Linda Rosenberg's Motion to Dismiss Plaintiff's Second Amended Complaint (ECF No. 72); Defendants Kimberly Barkley, George Koontz, Caitlyn McLaughlin, and Joel Tinsman's Motion to Dismiss Plaintiff's Second Amended Complaint (ECF No. 73); Defendant Gregory Thomas's Motion to Dismiss Plaintiff's Second Amended Complaint (ECF No. 74); pro se Plaintiff Turon McGee's Oppositions thereto (ECF Nos. 78, 85, 86, 87); and Defendant Gregory Thomas's Reply (ECF No. 88), **IT IS**

ORDERED that:

The following claims are **DISMISSED WITHOUT PREJUDICE**:

- (1) Plaintiff's claim against all Defendants (except Jason McLean) under 42 U.S.C. § 1983 for revocation of his parole without due process is **DISMISSED WITHOUT PREJUDICE** to refiling if Plaintiff's second parole revocation is

invalidated. Plaintiff is not otherwise given leave to amend his Second Amended Complaint for this claim.

- (2) Plaintiff's claim against Gregory Thomas under 42 U.S.C. § 1983 for violation of procedural due process is **DISMISSED WITHOUT PREJUDICE** to refiling if Plaintiff's second parole revocation is invalidated. Plaintiff is not otherwise given leave to amend his Second Amended Complaint for this claim.
- (3) Plaintiff's claim against Edwin Burke, Leo Dunn, Everette Gillison, Leslie Grey, Theodore Johnson, Mark Koch, Michael Poettiger, Craig McKay, and Linda Rosenberg under 42 U.S.C. § 1983 for violation of due process for failing to take a constitutional oath of office is **DISMISSED WITHOUT PREJUDICE** to refiling if Plaintiff's second parole revocation is invalidated. Plaintiff is not otherwise given leave to amend his Second Amended Complaint for this claim.
- (4) Plaintiff's claim against Edwin Burke, Leo Dunn, Everette Gillison, Leslie Grey, Theodore Johnson, Mark Koch, Michael Poettiger, Craig McKay, and Linda Rosenberg under 42 U.S.C. § 1983 for supervisory liability is **DISMISSED WITHOUT PREJUDICE**.

The following claims are **DISMISSED WITH PREJUDICE**:

- (1) Plaintiff's claim against Gregory Thomas under 42 U.S.C. § 1983 for violation of the Eighth Amendment is **DISMISSED WITH PREJUDICE**.
- (2) Plaintiff's claim against Gregory Thomas under 42 U.S.C. § 1983 for unconstitutional false arrest is **DISMISSED WITH PREJUDICE**.
- (3) Plaintiff's claim against Caitlyn McLaughlin for supervisory liability under 42 U.S.C. § 1983 for Plaintiff's unlawful arrest is **DISMISSED WITH PREJUDICE**.
- (4) Plaintiff's claim against Caitlyn McLaughlin for supervisory liability under 42 U.S.C. § 1983 for Eighth Amendment violations is **DISMISSED WITH PREJUDICE**.
- (5) Plaintiff's claim against Joel Tinsman for supervisory liability under 42 U.S.C. § 1983 for Plaintiff's unlawful arrest is **DISMISSED WITH PREJUDICE**.
- (6) Plaintiff's claim against Audrey Donald, Linda Rosenberg, Mark Koch, and Jane Doe (Schultz) under 42 U.S.C. § 1983 for revoking his parole is **DISMISSED WITH PREJUDICE**.

Defendants' motions to dismiss are **DENIED** as to the following claims:

- (1) All Defendants' (except Jason McLean) motion to dismiss the 42 U.S.C. § 1983 claim for violation of equal protection due to Plaintiff's status as a "status quo sex offender" is **DENIED**.
- (2) Thomas's motion to dismiss the conspiracy claim under 42 U.S.C. § 1985(3) is **DENIED**.

Plaintiff shall have leave to file a Third Amended Complaint to address the issues identified in the accompanying Memorandum Opinion. The Third Amended Complaint must be filed no later than **February 10, 2018**. **IT IS FURTHER ORDERED** that Plaintiff shall provide an update every sixty (60) days upon entry of this order to inform the Court of the status of his pending appeal regarding his parole revocation.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.